



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

MARK JOHNSON, §
Plaintiff, §
§
vs. § CIVIL ACTION NO. 2:05-3008-HFF-RSC
§
JO ANNE BARNHART, Commissioner of §
Social Security, §
Defendant. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE, REVERSING DEFENDANT'S DECISION TO DENY PLAINTIFF'S
REQUEST FOR BENEFITS, AND REMANDING THE CASE TO DEFENDANT FOR
FURTHER PROCEEDINGS

This is a Social Security case. Plaintiff seeks to obtain judicial review of the final decision of Defendant denying Plaintiff's claims for disability insurance benefits for the time period between February 24, 2000, Plaintiff's alleged onset date, and September 15, 2003. Plaintiff is well represented by her fine counsel, Beatrice E Whitten, of the South Carolina bar.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant's decision denying benefits before September 2003, be reversed under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3) and the case be remanded to Defendant for further proceedings. The Report is made in accordance with 28 U.S.C. § 636, and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo*

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 26, 2006. Neither party filed any objections to the Report. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that Defendant's decision denying benefits before September 2003, must be **REVERSED** under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3) and the case must be **REMANDED** to Defendant for further proceedings.

IT IS SO ORDERED.

Signed this 17th day of July, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE